1:Barnes E-5 (1946-1949) 1954 FR5 Ngoni FR5
Mpezeni

Each lord selected some of his quasi-related dependent men and made them his lieutenants. A lieutenant[10] was responsible for carrying out his lord's instructions and helped in keeping the peace within the segment. Thus a dispute between two people in the same segment was referred in the first instance to the lieutenants of their lord, who reported their decision on the matter to him. If agreement could not be reached the matter was referred to the lieutenants of the lord's lord, that is, to the next superior segment, and so on until the matter came before the Paramount Chief. A lord could override the decision of his lieutenants if he wished. The Paramount Chief's lieutenants were responsible for administering the poison ordeal (*mwavi*) when accusations of sorcery were made or when there was no other evidence.[11]

In the Nguni lineage, new inferior segments were formed mainly by differentiation between brothers, or between sons of different mothers. These types of differentiation occurred in the residential system and gave rise to new primal segments but alongside other processes of segmentation. The Nguni division of wives into great, right- and left-hand was developed into an arrangement whereby a man with many wives and many followers divided his wives into *houses*[12] of some half a dozen wives each and allocated his followers to specific bevies. Each leader of a bevy had her junior co-wives, her own and their sons, and her lieutenants and other dependants acquired by capture. Each of these groups of followers under a senior wife constituted a separate segment and we shall refer to the wife in charge of a segment of this kind as the lady (*nkosikazi*) of the segment. Sons, lieutenants and even quasi-related dependants who were not lieutenants were all able to found inferior segments of their own within their lady's segment. Thus with the passage of time every flourishing segment became subdivided internally into several inferior segments, and in addition there was often what we shall term a *rump*, consisting of dependants not allocated to any inferior segment.

Most of the Nguni settlements were small, but on their march north the Nguni lived in large compact villages containing over a thousand huts and several thousand inhabitants. Within these large villages people were arranged in terms of their segmentary affiliation and it is for this reason that we have spoken of a 'residential' system. The members of each small primal segment lived

[10] Xhosa, *pl.* *odoma*. cf. Zulu *indoma*.

[11] See Wilson, 'Ritual Life', pp. 43n, 47n, and 'Communities', pp. 188, 190.

[12] In earlier publications I used the term 'house' in place of 'bevy'. See my *Marriage*, p. 81.

2: Read E-5 (1935-1939) 1956
FR5 Ngoni FR5

central Ngoniland in which Ngoni law and usage differed from local usage in such matters as the custody of children, the right to 'leave the village' and the ownership of cattle.

Above the informal courts of the village headmen were the courts held in pre-European days at the head villages of the *nduneumu*. A *nduneumu* was called 'the owner' of those villages surrounding his head village, consisting of his own clan members, local people and captives. The *nduneumu* had a double interest in maintaining justice in his area. If he failed in a case, there was in the central kingdom only one court above him—that of the Paramount—though in the northern kingdom the areas ruled by the leading Jere chiefs had courts which came between the *nduneumu* and the Paramount. Except in cases of murder and witchcraft, which he was obliged to take to the Paramount's court, the *nduneumu* was anxious to prove to the Paramount that he was a man fit to hold and wield authority over a number of villages. He was also concerned to maintain his authority among his own people, and this was recognized most clearly in the conduct of cases in his court. The system of checks and balances in the Ngoni political organization required that the Paramount should always dominate, but at the same time delegate authority to his chiefs and the heads of leading clans. The authority exercised by a *nduneumu* derived from his leadership of a Swazi or trans-Zambezi clan in a particular area, but he had to maintain his position in pre-European days by constant vigilance over his people. In the process of holding together villages of mixed tribal origin the courts of the *nduneumu* and the administration of law in them played an important integrating role.

The conduct of cases in Ngoni courts

Informants in the northern and central kingdoms made it clear that there were certain common elements in Ngoni procedure in pre-European days which were carried on in the courts in the 1930's. The one who brought the case to court, the *plaintiff*, was called the *owner of the case* (*mwini wa mlandu*). Those who were called as witnesses were those who were present at the time of the quarrel who might have seen or heard something which bore on the case. The Ngoni practice of legal procedure was not to call witnesses to support either side, but to appeal to the public to give evidence about what had occurred. I heard Ngoni counsellors press a witness to say exactly where he or she was at the time of an assault. On other occasions they addressed a witness in these terms: 'Now you are from X's family. Here in this court you must tell us truly what happened. Do not be afraid. Do not remember your kinship (*ubale*) but remember what you saw, and speak well.' There was explicit in this approach a definite appeal to the public to take their part in seeing that justice was done and so restoring equilibrium and good feeling in the village. If the counsellors who were conducting a case

suspected a witness of lying, they accused him of doing so after he had told his story. If he persisted in his version of the events, and they still thought he was lying, they cross-questioned him, and when the point where he contradicted himself was reached they turned on him and said: 'You lied. Now you have said you lied. You do not speak well.'

In the following account of Ngoni law by Cibambo there are two main emphases. One is on the existence of law, in the sense of a norm of good conduct, conformity to which was expected and enforced. The text at the beginning of this chapter showed how the law was made known to all the inhabitants of the country, so that ignorance could not be pleaded as an excuse for law-breaking. The other emphasis is on decorum and the regular and accepted pattern of behaviour expected in the courts, and on the Ngoni hatred of bribery, which was claimed by them, and on the whole endorsed by Europeans.[1] Respect for the law, for the court in session and for the judgement, are expressed in Cibambo's account of the proceedings, and the winner of the case (though formerly it was the loser) expressed his thanks, after judgement was given, to the Paramount or the chief, and to the elders.

The laws and the power to punish disturbers of the peace were in the power of the Paramount and those who were under him. If there was a bad case in which the guilty man deserved death according to the law, such a matter was in the power of the Paramount and the lesser chiefs who helped him, and of them only. It was the same in the case of anyone who deserved to be despoiled of all his possessions because of his wrong-doing. The law was a protection for the people who might have been killed cause-lessly by their masters if they had had the power. People who were in danger from those who were above them, in danger of confiscation or of death, ran to the younger brothers of the Paramount or to the Paramount himself or sometimes they ran to the great *izinduna*. Praises had been added to those of Chief Mbwelo for this very reason that he had saved many whom Mbelwa had wanted to kill '*Isifuba esimemezeni, sitsho ekukwatula ekukwesezana*' (a chest with words which spoke for the men of noble birth).

If people quarrelled in a village and could not be reconciled it was the work, as it is today, of the headman to try and bring them together, and if he thought that one had wronged the other he ordered him to bring something to recompense the other. Such recompenses were small things, from beads to a goat, perhaps an axe or a hoe. If the headman found he could not settle the business he went with them himself to the next court, to the head of the group of villages, and the standard of the payment increased. Serious cases went to the courts of the chiefs but these cases were few and not like today. People were very much afraid of each other

[1] On the walls of Paramount Mbelwa's court in Mzimba district in north Nyasaland were painted three sayings in English and in Tumbuka. Over the Paramount's chair was written 'Justice is blind', by the place where the witnesses stood to speak, 'The law has no respect of a person', and over where the general public sat 'Everyone is equal before the law'.

2: Read E-5 (1935-1939) 1956

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and appeals were uncommon. Chiefs did not allow a man to come by himself with his case to them, he had to come with his headman. Even those in danger of death went first to the headmen and these brought them to the chiefs.

The Ngoni hated bribes. If any *indunas* was found to have taken bribes from people he was condemned and punished.

The hearing of the cases was like what it is today. The one who brought the case to the court spoke first, then the one with whom he was quarrelling. If there were elders there from their village they also spoke telling and how these people quarrelled, saying so-and-so began to quarrel in such-and-such a way, and then showed how they had been unable to judge in the village. They did not go into details of the quarrel, that was done by the men themselves. After those who had quarrelled had told of the beginning of the case any who knew of it were asked to say how it appeared to them in the village. These were the witnesses both for and against.

When this had been done, all who were implicated or interested in the case remained silent. It is the custom of the Ngoni that all who spoke in a case should stand and have a stick, and as they spoke they should walk about and limp with the stick or sometimes stand all together, but in that case the hand which held the stick should shake and stick it into the ground. Only women spoke seated. No one at the hearing of a case was allowed to lie down, everyone, even the Paramount, sat. They did this because they were afraid that otherwise the case would not finish quickly. The court was held in the cattle kraal. Women were not allowed into the kraal for cases, but sat outside opposite where the old men were gathered, even though they were the wives of the Paramount.

After the litigants and the witnesses had spoken it was the turn of the elders of the court. They questioned and agreed with or criticised the men who had quarrelled but they did not pronounce judgement. They waited for the Paramount who first of all sat silent and noticed those who unravelled or twisted the case. Afterwards when the people had finished speaking, the elders delivered the story to the Paramount or judge. The judge then delivered his judgement and condemned those who had twisted the case. He delivered his judgement sitting not standing like the other people and when he had finished all thanked him, or rather saluted him with a loud '*Bayete*' or with the surname if to lesser chiefs. Sometimes he sent an elder to tell the court the judgement. When the case had been judged no one criticised the judgement. The one who began to give thanks for the judgement was the one who was found guilty: this he did to show submission and repentance. The custom of today that the one who wins the case gives the thanks is not good because the man who has lost goes away in resentment and threatening and often the case crops up again.

If an *induna* or man of standing went secretly to the Paramount to accuse somebody that he deserved death (perhaps for witchcraft), very often the Paramount sent a man in secret to warn the condemned man to run to a chief's village and hide his head. In this way many left their fathers and went to build with the chiefs and when they went they took

all their things

3: Read E-5 (1935-1939) 1960
FR5 Ngoni FR5

in judgement on his own son, a young man of twenty-one, for committing adultery with the wife of a man of a former slave family. The husband brought the case against the chief's son, and the chief ordered the man to speak truly and not be afraid. The case was heard amid the most deathly silence. In awarding a heavy penalty of compensation against his son, the chief spoke of the central position of law in Ngoni life, and of the fact, so sharply brought out by the case, that the law was no respecter of persons.

Young adults, boys and girls, were held personally responsible for breaches of the law which they had committed. Penalties were awarded against them as individuals, even though they often could not pay the compensation without the help of their father and his family. They were expected to become acquainted with the law in various ways. One was by conformity to accepted social codes of behaviour, instilled into them by their elders, particularly in such matters as sex relations, respect for property, avoidance of slander and of injury by violence. Another way of learning how the law operated, as well as the principles upon which the case-law was built, was by attending the courts, and listening carefully to the cross-examinations as well as to the judgements. Young people were expected also to ask their fathers, and elders generally, about points of law which they had not understood, or had confused with some of the practices of the local people. The onus was upon young adults for acquiring this knowledge of the law as well as for behaving in accordance with it. We shall see in the next chapter how the Ngoni regarded being law-abiding as one of their basic cultural traits, as well as being evidence of the individual character of a young adult.

Ngoni traditional skills

We made a distinction, albeit a rather tentative one, at the beginning of this chapter between certain kinds of traditional knowledge which we have been describing up to this

6:Rattray E,G-5 (ca. 1900) 1907 FRS Ngoni FRS

I

THE ORDEAL POISON

I. In the event of a chief's wife dying, or perhaps his child, the chief holds a consultation with the village elders, saying, "You at the village here, we wish to consult the oracle." At the "chief's" ordeal they summon all the headmen, but in the case of the "people's" ordeal, every one partakes of the poison. When they see that people are often dying they talk it over with the headmen, saying, "Look here at the village, here people are dying and we wish to summon the medicine man, that he may follow up the clue for us at the village." So they send one youth to summon the medicine man. He arrives very late in the evening. They put him in some hut, without people knowing that he has come. In the morning a young man gets up, and goes and stands at the open space in the village [where the men sit and talk, and where the different disputes are settled], and when he has climbed on an ant-hill, that all men may hear, he says, "Do you hear, you must not eat your 'asima' porridge to-day; he who is asleep let him arise that he may himself hear. They are saying you all must bathe, you taste a little of the beer that is not sweet, to-day."

II. He who was about to have his morning sup, pushes aside his flour against the hut wall, he begins

6:Ratray E, G-5 (ca. 1900) 1967 FRS Ngoni FRS

to hide his household goods for, says he, "How do we know we shall return from there." And all their heads are taken off. When they see the sun is beginning to rise, every one assembles. And then they begin to pick out some strong young men, saying, "So and so must stay behind, and so and so, they must look after their companions and keep guard over the village, lest the medicine man's children begin to pillage the property of them who do not die." And then they begin to set out to go to the spot the poison is to be drunk at, and they carry in readiness a grain mortar and a pestle (just any mortar), and follow the path in single file, and come to where the witch doctor is, and he begins to arrange them in a line; they do not turn their backs to the sun, the women spread out in one line, the men in another. The place is black with people. The medicine man has his feather head-dress on, and goat's-hair bands are round his wrists. And then some old man gets up to present that for which the medicine is pounded, perhaps a goat, and this is for opening his bag [where he keeps the poison].

III. Thereupon the doctor says, "Give to me the spirit of the dead." Then that old man gets up, and going up to the village chief, tells him "The doctor is seeking the spirit of the dead." And the chief speaks, saying, "Well, and know you not them who have died here?" And then the old man gives him, the doctor, the spirit, saying, "Here so and so, and so and so have died, and it is on their account we summon you." Then the pounder of the poison says, "Give to me the partakers of human flesh who have eaten these ones you name." And then they call up two people, a man and a woman, saying, "Let her of the race of the Hills, and him of such and such a clan come here." And them they thus called come and stand near the mortar. Then

6:Rattray E,G-5 (ca. 1900) 1907 FR5 Ngoni FR5

the pounder of the ordeal poison opens his monkey-skin wallet, pulls out the poison bark, and breaks it off into the mortar with a hippo's tooth. When he is chipping it off, he does not finish all the bark he has in his hand, he chips off a little and leaves the rest. When he is doing this the bark jumps, and falls on the left, and again on the right. They surely know that here to-day wonders will befall and that men will die and women. Then the medicine man says, "Give us men to go and draw water." Then the old man asks, "How many men shall we bring?" And perhaps he says, "Bring three, because the people are many," and the doctor tells them, "You must not glance behind, but just draw the water and return." (Lest they give warning to the flesh-eaters.) When he has finished cutting down the bark, he bids his attendant "begin to pound." They do not pound the poison bark as they would grain, they pound, thud! thud! and turn the pestle in the hands. While the attendant is pounding, the pounder of the bark keeps tapping, rat, tat, tat, on the mortar, with his monkey stick [which monkeys use for digging roots], and chants—

754 695 791 [825]

IV. "You have heard mother of children,
Mother of children of *Kundamwa*.
Indiscriminate slaughter is the game war plays,
It slew the baboon at *Bonqwe*,
When you slay let your victims fall backward and not forward.
Bag, make the poison hear my words.
You are come into the village, you are their advocate.
They say, that here so and so and so and so have died.

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6:Rattray E, G-5 (ca. 1909) 1907 FR5 Ngoni FR5

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It is to plead for them you have been summoned.
There they are, she of the house of the Hills, and he of so and so's clan.
She of the Hills, it is she who has taken the basket.
He, the man, took the little sharp knife,
If it be not you, on the spot, on the spot, you must vomit,
If it be you,
Oh slay, slay, slay."

When they come with the water, the medicine man takes a water-jar full, and pours it into the mortar. You can hear the froth come foaming up, and then he draws a cup of the poison and struts about stirring it with his monkey stick, and uttering this incantation—

"Pick them out, pick them out, pick them out,
You see only the morning's sun, its rays when sinking in the west you must not see.
Are you not that one?
You went to Zomba,
You beat the drum,
It was heard in the 'Never-reach-there country' of the fly,
The spurred fly.
There is a squint-eyed lizard there.
If it were not you who beat that drum,
You must vomit.
If it were you,
You must die.

V. "You went into the regions of the air,
You captured a ray of the sun,
You likened it unto a girdle,
Saying, 'Do you be my strength,
That when the poison comes,

6:Ratray E,G-S (ca. 1900) 1907 FRS Ngoni FRS

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You will give me the mastery over it,
I shall win,
This girdle do you never, never, never.'
You swallowed the egg of a fish-eagle,
That the poison when it came might become as naught,
This egg you must smash.

" You took the spleen of a crocodile,
You laid it in your heart,
You took a python's belly,
You swallowed it, that power might be yours,
Do you [my poison bark] read these.

" You took wax,
You smeared it on your feet,
Going in your neighbours' fields,
Going with stealthy tread to gather up his grain,
To dust off again in your own garden,
Your companions are in want,
You have wealth to overflowing.

VI. " When you see your neighbour's child,
You say, 'Why should he walk thus at large?'
But surely I had better have eaten him
He who thinks thus shall enter here [into the mortar].

" The broken gourd-cups off the grave you beat together, that they might turn into snakes.
Was it not you who sang the song, saying,
'If it be large and heavy, if it be large and heavy, if it be large and heavy,
They go about rolling it,
If it be small and light, they just lift it' [the corpse].

6:Battey E, G-S (ca. 1900) 1907 FRS Ngoni FRS

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Was it not you who sang so?
I seem to think I heard you.

"That little razor have you brought it now?
No, I have forgotten it [supposed answer].

"Maiden, beautiful maiden, E! E! E!
You took the arm-bones of the children of men,
You used to go and dance with them,
The squint-eyed lizard is on his seat, and
Sounding the drum,
Wheeling ever one way.
Now in the opposite direction, see they have
rent the drum.

"There is a thing that walks by night,
There is something that comes by day,
It has seen him."

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VII. "No, to-day we have met each other, the boundary is there, from the east to the zenith is yours, from the zenith to the west is mine alone." He kneels down where one of the human flesh-eaters is, he does not address the demon himself, but talks with another who is next him, and says, "My child, where did you get your black magic; did you get it that you might be all-powerful, you alone?" When he gets up he exclaims, "I have got you, you must not escape, you must go in there, in there, you must enter here" [into the mortar]. When he sees that his attendant has finished pounding the poison, he takes some water and pours it into the mortar, and stirs it, and removes the dregs and takes two gourd-cups, and fills them with the poison. The woman and the man, they are the first to drink. Then the doctor makes every one else do so. Two men drink, he draws again, and gives two women. And so on until all have partaken.

6.Ramsay E,G-5 (ca. 1900) 1907 FRS Ngoni FRS

VIII. Then the witch finder says, "That beer I had great trouble in buying, you must not waste it, no, you there, we only told you to sip it, do not you see it is a small pot." Then he knocks down the mortar with his foot, and beats together two pieces of metal. When he sees that one human flesh-eater is dead, he says he has caused the mortar to fall. Some, when dying, cry out [like a hyæna]. "Uwi, uwi"; and people know he used to transform himself into that animal; should he roar like a lion, they know he was at times that mighty beast. Others again, when dying, clench their hands. Should they clench one hand, it is known they have eaten five people; if they clench both, men know their victims have been ten. When all have vomited, he causes the survivors to jump over the path. When he sees a man has jumped, he knows that one is an ordinary person and not an eater of human flesh, and the reason the doctor knows this is because he has washed the poison with a medicine made from the "*sizwivi*" mouse [and it cannot cross a path and live]. Then the medicine man says, "Let them return to the village now, where a tree has fallen you cannot hide the fall thereof." Any one who has withstood all these tests, on seeing the grass tuft on his hut, dies. When the doctor hears a man has died, he goes to the place to strip him of his cloth and cut off the belt of beads from his waist. Of them who die at the drinking-place and who are free born, their friends make some payment to the doctor, saying, father has died from the poison. Anything the dead man be a slave they burn the body. They who remained behind at the village will drink on the morrow. The pounder of the poison, on returning to his home, is given a goat, perhaps a slave whose "Let me go and bury them." Should the dead

(Ratzay E, G-8 (ra. 1900) 1907 PRS Nguni PRS

human flesh-eaters may have worn, the doctor takes home with him and washes his poison bark with it, that it may still retain its virtue. In the case of a man who dies from drinking the poison, his spirit is not brought back to the village, but is driven out into the bush.

II

A FUNERAL

1. When a person dies every one is told that so and so, who was ill, is "finished for." Then the village elders come together and go into his hut. They begin to bathe the body and anoint it with oil, folding the knees against the chest, and laying the palms of the hands against the cheeks, the arms being bent from the elbows. Then they take a large flat stone, set it against the hut wall, and on it place the body in a sitting position. Then they commence to wail, the women folk only are in the hut where the corpse is, the men are outside, and the children on the verandah. They lament, saying, "Alas, alas, my husband, what shall I do this day?" [The women pass the night in the hut with the dead body, the men sleep outside.] Next morning, when it is dawn, some men take their hoes, and sacrificial flour, and go to some resting-place on the wayside, and sprinkle some flour at the foot of a tree, and set out again, and when now they are drawing near the burial ground, the one who is in front picks up a stone and throws it, with the words, "We have passed." Then they commence to clear a piece of ground, and take the flour and mark out the grave.

6/Ratuzay E,G-S (ca. 1900) 1907 FRS Ngoni FRS

right, the animal is the property of him who first [drew blood]. 224

II. Should it be a buck about which there is a dispute, one saying, "My dog was first," another, "My dog was first," then they say, "Come, let us dig up medicine." And they take the medicine, one his lot, the other his, and chew a bit between the teeth, and one blows it out over his dog, saying, "You dog, if it were not you (who caught the buck), you must die; if it were you, you must vomit." And the other man says the same (to his dog), and they see the dog of one of them is dying. Should it chance that two men throw together, and one says, "It was I who began," they say, "Do not let us be always arguing about this; come, let us go to the medicine man." They do not drink (the poison) themselves, but their dogs drink. And when they have finished hunting they say, "Let us be getting back now." All the game they have killed they pile up together, and the master of the hunt begins to "twist off" the legs that are his share. If they see that there is a great quantity of meat, they cut it in stripe, and make a drying rack and light a fire (under it), that the meat may dry. When dry, it is taken off the rack and tied into bundles. 224 224 578 695 224 [251]

III. One way of hunting is with many men and dogs, and another of the single hunter. Others, again, dig game pits, and make long fences leading up to them, leaving gaps here and there where the pits are. Another way of hunting is by cutting off a stretch of bush. A man separates his bit of jungle, [by clearing a bare strip all round it] and when all the bush is burned, it alone remains. The game run away from the bare place and enter the bush patch; when the rains are just about to begin to fall, he goes and sets fire to the cut off bush patch. When the game run for the open, people kill them.

13:Fraser M-5 (ca. 1890)1901
FR5 Ngoni FR5

[787] [771] rising out of the lake, this was the spirit of the fathers returned. Now they had never heard before of men with white skins. But one day when they were burning the Henga villages, suddenly they came on David Livingstone and his party on their first journey of exploration on the Lake. More than once I have heard them tell how this wicked hag had cursed her enemy and said that beneath that tree the lightning would strike her, or some other terrible prediction, and there came a strange fulfilment. 795 741 Such curious accidents gave to witch-doctors and others a dangerous power over the people. And in spite of their constant failure to bring rain, or ward off sickness and death, their reputation was kept alive by the memory of one or two ancient successes, and by playing on the terrors of the people. Unfortunately these superstitious terrors led to miserable atrocities. ● 695 The witch-doctor was always called in to detect crime which was not patent. He brought his poison pot with him. He might accuse whom he pleased, and the only way the accused could clear himself was by drinking the poison. If he became sick and vomited then he was innocent. If he died he was guilty. When 766 a chief died his spirit was not allowed to go to the other world alone. A great fight was organised and many were killed, that they might be with him. Or the women and slaves were taken and buried alive with him in the pit.

845 849 The twin children and those who cut their upper teeth before their lower, or any who showed any abnormality were buried alive in the sand of the river, or were cast out to the hyenas.

177 These atrocities are happily becoming matters of history. We seldom now hear of them, and when we do, it sends a thrill of horror through many of the people.

[693] Now a great change is coming over the people. They are the only independent tribe in Central Africa, living under their own chiefs. But the old military days have passed away, and with them much of the great power of the chiefs. The old men see it, and shake their heads, but do nothing to readjust the state. But the young chiefs, most of whom are readers and Christians, have set themselves energetically to try and remould their government. [634] Our most capable and powerful sub-chief, who is himself an elder of the church has recently established a regular hut tax, and has formed a police force. His police bring criminals to justice, enforce his judgments, prohibit the people from cutting down trees, and during slack seasons go through the villages, and where